

# **EXHIBIT 2**

**IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF  
OHIO, EASTERN DIVISION**

KEN JOHANSEN, on behalf of himself  
and others similarly situated,

Plaintiff

vs.

ONE PLANET OPS INC.,

Defendant.

Case No. 2:16-cv-00121

**DECLARATION OF ERIC SCHACHTER RE: NOTICE PROCEDURES**

I, Eric Schachter, declare as follows:

1. I am a Vice President of A.B. Data, Ltd.’s Class Action Administration Company (“A.B. Data”), whose Corporate Office is located in Milwaukee, Wisconsin. A.B. Data was appointed as the Settlement Administrator in this matter and is not a party to this action. I have personal knowledge of the facts set forth herein and, if called as a witness, could and would testify competently thereto.

**CAFA Notification**

2. In compliance with the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1715, A.B. Data compiled a CD-ROM containing the following documents: Class Action Complaint, Class Action Settlement Agreement, Proof of Claim Form, Proposed Final Approval Order and Judgment, Long Form Notice, Postcard Notice, Proposed Preliminary Approval Order, and Plaintiff’s Unopposed Motion for Preliminary Approval of Class Action Settlement and Incorporated Memorandum in Support, which accompanied a cover letter (collectively, the “CAFA Notice Packet”). A copy of the cover letter is attached hereto as Exhibit A.

3. On August 5, 2019, A.B. Data caused fifty-seven (57) CAFA Notice Packets to be mailed via Priority Mail from the U.S. Post Office in Milwaukee, Wisconsin to the persons listed in Exhibit B, *i.e.*, the U.S. Attorney General, the Attorneys General of each of the 50 States and the District of Columbia, and the Attorneys General of the five recognized U.S. Territories.

4. On August 8, 2019, A.B. Data mailed an additional letter to the 57 recipients detailed in Exhibit B, correcting the filing date of Plaintiff's unopposed motion for preliminary approval. The additional letter provided the correct filing date of July 25, 2019. A copy of the correction letter is attached hereto as Exhibit C.

5. As of the date of this Declaration, A.B. Data has not received any responses to the CAFA Notice Packet identified in ¶3 above or the correction letter referenced in ¶4.

#### **Class List**

6. On or around August 2, 2019, A.B. Data received a file containing a list of eligible phone numbers ("Class List") from Defense Counsel.

7. On or around August 5, 2019, A.B. Data facilitated, through a vendor, reverse directory searches of 9,406 of the telephone numbers on the Class List, each of which either lacked a corresponding name and address and/or was associated with multiple names. Upon completion of A.B. Data's analysis of the data returned by the vendor, the names and addresses of these 9,406 telephone numbers were updated, yielding 9,339 unique names and addresses.

8. A.B. Data routinely performs reverse directory searches to identify names and addresses associated with telephone numbers for TCPA administrations, and this process has been relied upon by A.B. Data for a number of administrations in past years for the purpose of notice.

9. A.B. Data formatted the list for mailing purposes and processed the names and addresses through the National Change of Address Database ("NCOA") to update any addresses on file with the United States Postal Service ("USPS"). A.B. Data updated its proprietary database with the Class List.

#### **Mailed Notice**

10. On November 8, 2019, A.B. Data caused the Postcard Notice ("Postcard Notice") to be printed and mailed to the 9,339 unique names yielded during the reverse director search. A true and correct copy of the Postcard Notice is attached hereto as Exhibit D.

11. Since mailing the Postcard Notices to the Settlement Class Members, A.B. Data has received 769 Postcard Notices returned by the USPS with undeliverable addresses. Through

credit bureau and/or other public-source databases, A.B. Data performed address searches for these undeliverable Postcard Notices and was able to find updated addresses for 261 Settlement Class Members. Following the re-mailing of Postcard Notices, 95 were returned once again as undeliverable. A.B. Data has not taken any further action on these Postcard Notices.

12. Altogether, individual notice was successfully sent to 8,736 Settlement Class Members (94%) without a returned notice being received. There are 603 Settlement Class Members (6%) for whom valid addresses have not been found.

#### **Case Website**

13. On or around November 8, 2019, A.B. Data established a website, [www.OPOSettlement.com](http://www.OPOSettlement.com), dedicated to this matter to provide information to the Settlement Class Members and to answer frequently asked questions. The website URL was set forth in the Notice, Publication Notice, and Claim Form. Visitors to the website could submit claims online and download copies of the Notice, the Claim Form, and other case-related documents. To date, the website has received 29,499 unique visits.

#### **Toll-Free Telephone Number**

14. On or around November 8, 2019, A.B. Data established a toll-free telephone number dedicated to answering telephone inquiries from Settlement Class Members. To date, A.B. Data has received and/or returned a total of 6,480 calls.

#### **Claim Forms**

15. The deadline for Settlement Class Members to file claims in this matter was January 9, 2020. To date, A.B. Data has received a total of 519 claims. After removing duplicative and invalid claims, there are preliminarily 456 claims eligible for payment. A.B. Data continues to undertake programmatic and manual audits and quality assurance reviews to identify duplicate and invalid claims.

#### **Requests for Exclusion from Class**

16. The deadline for Settlement Class Members to request to be excluded from the Class was January 9, 2020. To date, A.B. Data has received 2 requests for exclusion. A list of the requests for exclusion received is attached as Exhibit E.

### **Objections to the Settlement**

17. The deadline for Settlement Class Members to object to the Settlement was January 9, 2020. To date, A.B. Data has not received any objections and is not aware of any objections being submitted.

### **Fund Distribution**

18. A.B. Data has preliminarily calculated the Settlement Class Member Settlement awards. These calculations are based on the assumptions that the gross Settlement amount is \$752,560.00, and from that amount, deductions are made for (a) attorneys' fees (\$250,853.00); (b) attorneys' costs (\$37,431.63); (c) named plaintiff award (\$10,000.00); and (d) administration costs (\$75,000.00). The remaining amount (\$379,275.37) (the "Net Settlement Fund") will be distributed on a *pro rata* basis to Settlement Class Members with Approved Claims. Each Settlement Class Member who submits an Approved Claim shall be entitled to receive an amount equal to the Settlement Class Recovery divided by the total number of Approved Claims, which, if all currently eligible claims are accepted, is estimated to be \$831.74 per claim. Should the Court-awarded fees or costs differ from those shown above, or if the list of Settlement Class Members approved for payment and/or their class data changes, the estimated award allocation calculations will change accordingly.

I declare under penalty of perjury under the laws of the State of Wisconsin that the foregoing is true and correct.

Executed this 13<sup>th</sup> day of February 2020 at Milwaukee, Wisconsin.



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Eric Schachter

# EXHIBIT A

A.B. DATA, LTD.

Class Action Administration



August 5, 2019

via USPS Priority Mail

**Re: *Ken Johansen v. One Planet Ops, Inc.*, Civil Action No. 2:16-cv-00121 (S.D. Ohio)  
28 U.S.C. § 1715(b) Notification**

Dear Sir or Madam:

Settlement Administrator A.B. Data, Ltd., on behalf of the Defendant in the above-referenced action (the “Action”), provides the notice as specified in the Class Action Fairness Act of 2005, 28 U.S.C. § 1715(b).

The Action is pending before U.S. District Court Judge Algenon L. Marbley in the United States District Court for the Southern District of Ohio. On June 25, 2019, counsel for the Plaintiff filed an unopposed motion for preliminary approval of a Class Action Settlement Agreement (the “Settlement Agreement”). The Court has not yet preliminarily approved the Settlement Agreement or set a hearing date for final approval of the Settlement Agreement.

Please find enclosed a CD containing certain documents and information in “.pdf” format as required by the Class Action Fairness Act. These include the following enclosures:

1. The Class Action Complaint, filed on February 10, 2016;
2. The Settlement Agreement, executed on July 17, 2019;
3. The Claim Form, Exhibit 1 of the Settlement Agreement;
4. The (Proposed) Final Approval Order and Judgment, Exhibit 2 of the Settlement Agreement;
5. The Postcard Notice, Exhibit 3 of the Settlement Agreement;
6. The Long Form Notice, Exhibit 4 of the Settlement Agreement;
7. The [Proposed] Preliminary Approval Order, Exhibit 5 of the Settlement Agreement; and
8. The Plaintiff’s Unopposed Motion for Preliminary Approval of Class Action Settlement and Incorporated Memorandum in Support.

Also included on the CD is a list containing the estimated number of class members residing in each state and the estimated proportionate share of the claims by state to the entire Settlement.

There are no contemporaneous agreements between Class Counsel and Defendant’s Counsel in conjunction with the proposed Settlement other than the enclosed Settlement Agreement. At this time, there has been no final judgment or notice of dismissal, and there are no written judicial opinions relating to the Settlement Agreement.

The foregoing information is provided based upon what is currently available to date and the status of the proceedings at the time of the submission of this notice.

Sincerely,

A.B. Data, Ltd.

Settlement Administrator on behalf of Defendant

[abdataclassaction.com](http://abdataclassaction.com)

New York | Washington, D.C. | Chicago | West Palm Beach | Milwaukee

# EXHIBIT B



Office	Name	Street Address 1	Street Address 2	City	State	Zip
United States Attorney General	William Barr	US Department of Justice	950 Pennsylvania Ave, NW	Washington	DC	20530-0001
Office of the Alabama Attorney General	Steve Marshall	501 Washington Avenue		Montgomery	AL	36130
Office of the Alaska Attorney General	Jahna Lindemuth	1031 W. 4th Avenue	Suite 200	Anchorage	AK	99811-0300
Office of the American Samoa Attorney General	Talauaga Eleasalo V. Ale	American Samoa Gov't, Exec. Ofc. Bldg	Ulelei, Territory of American Samoa	Pago Pago	AS	96799
Office of the Arizona Attorney General	Mark Brnovich	1275 W. Washington St.		Phoenix	AZ	85007
Office of the Arkansas Attorney General	Leslie Rutledge	323 Center St.	Ste. 200	Little Rock	AR	72201-2610
Office of the California Attorney General	Xavier Becerra	1300 I St.	Ste. 1740	Sacramento	CA	95814
Office of the Colorado Attorney General	Phil Weiser	Ralph Carr Colorado Judicial Center	1300 Broadway, 10th Floor	Denver	CO	80203
Office of the Connecticut Attorney General	William Tong	55 Elm St.		Hartford	CT	06141-0120
Office of the Delaware Attorney General	Kathy Jennings	Dept of Justice	820 N. French St. Ste 1	Wilmington	DE	19801
Office of the District of Columbia Attorney General	Karl A. Racine	441 4th Street, NW	Ste. 1100S	Washington	DC	20001
Office of the Florida Attorney General	Ashley Moody	300 The Capitol	PL 01	Tallahassee	FL	32399-1050
Office of the Georgia Attorney General	Chris Carr	40 Capitol Square, SW		Atlanta	GA	30334-1300
Office of the Guam Attorney General	Leevin T. Camacho	ITC Building	590 S Marine Corps Dr, Ste. 706	Tamuning	Guam	96913
Office of the Hawaii Attorney General	Clare E. Connors	425 Queen St		Honolulu	HI	96813
Office of the Idaho Attorney General	Lawrence Wadsen	Statehouse		Boise	ID	83720-1000
Office of the Illinois Attorney General	Kwame Raoul	10 W Randolph St	Ste 1200	Chicago	IL	60601
Office of the Indiana Attorney General	Curtis T. Hill, Jr.	Indiana Government Center South - 5th Floor	302 W. Washington St.	Indianapolis	IN	46204
Office of the Iowa Attorney General	Tom Miller	Hoover State Office Bldg.	1305 E. Walnut	Des Moines	IA	50319
Office of the Kansas Attorney General	Derek Schmidt	120 S.W. 10th Ave	2nd Fl	Topeka	KS	66612-1597
Office of the Kentucky Attorney General	Andy Beshear	700 Capitol Avenue	Capitol Building, Ste. 118	Frankfort	KY	40601
Office of the Louisiana Attorney General	Jeff Landry	PO Box 94095		Baton Rouge	LA	70804-4095
Office of the Maine Attorney General	Aaron Fray	State House Station 6		Augusta	ME	04333
Office of the Maryland Attorney General	Brian Frosh	200 St. Paul Place		Baltimore	MD	21202-2202
Office of the Massachusetts Attorney General	Maura Healey	1 Ashburton Place		Boston	MA	02108-1698
Office of the Michigan Attorney General	Dana Nessel	525 W Ottawa St	G Mennen Willaims BLDG 7th FL	Lansing	MI	48909-0212
Office of the Minnesota Attorney General	Keith Ellison	Martin Luther King, Jr. Blvd.	Ste. 102 State Capital 75 DR	St. Paul	MN	55155
Office of the Mississippi Attorney General	Jim Hood	Department of Justice	PO Box 220	Jackson	MS	39205
Office of the Missouri Attorney General	Eric Schmitt	PO BOX 899		Jefferson City	MO	65101
Office of the Montana Attorney General	Tim Fox	Justice Bldg. Third Floor	215 N. Sanders	Helena	MT	59620-1401
Office of the Nebraska Attorney General	Doug Peterson	2115 State Capitol	PO Box 98920	Lincoln	NE	68509-8920
Office of the Nevada Attorney General	Aaron Ford	Old Supreme Ct. Bldg.	100 N. Carson St	Carson City	NV	89701
Office of the New Hampshire Attorney General	Gordon MacDonald	33 Capitol St		Concord	NH	03301-6397
Office of the New Jersey Attorney General	Gurbir S. Grewal	Richard J. Hughes Justice Complex	25 Market St.	Trenton	NJ	08625
Office of the New Mexico Attorney General	Hector Balderas	PO Drawer 1508		Santa Fe	NM	87504-1508
Office of the New York Attorney General	Letitia A. James	Dept. of Law - The Capitol	2nd fl.	Albany	NY	12224
Office of the North Carolina Attorney General	Josh Stein	Dept. of Justice	PO Box 629	Raleigh	NC	27602-0629
Office of the North Dakota Attorney General	Wayne Stenehjem	State Capitol	600 E. Boulevard Ave.	Bismark	ND	58505
Office of the Northern Mariana Islands Attorney General	Edward Manibusan	Administration Building	PO Box 10007	Saipan	MP	96950
Office of the Ohio Attorney General	Dave Yost	State Office Tower	30 E. Broad St. FL 14	Columbus	OH	43266-0410
Office of the Oklahoma Attorney General	Mike Hunter	313 NE 21st Street		Oklahoma City	OK	73105
Office of the Oregon Attorney General	Ellen F. Rosenblum	Justice Bldg	1162 Court St.	Salem	OR	97301
Office of the Pennsylvania Attorney General	Josh Shapiro	393 Walnut Street	Strawberry Square, 15th Floor	Harrisburg	PA	17120
Office of the Puerto Rico Attorney General	Wanda Vazquez Garced	PO Box 902192		San Juan	PR	00902-0192
Office of the Rhode Island Attorney General	Peter Neronha	150 S. Main St.		Providence	RI	02903
Office of the South Carolina Attorney General	Alan Wilson	Rembert C. Dennis Office Bldg	PO Box 11549	Columbia	SC	29211-1549
Office of the South Dakota Attorney General	Jason Ravnsborg	1302 East Highway 14	Suite 1	Pierre	SD	57501-8501
Office of the Tennessee Attorney General	Herbert H. Slatery III	425 5th Ave. North		Nashville	TN	37243
Office of the Texas Attorney General	Ken Paxton	Capitol Station	PO Box 12548	Austin	TX	78711-2548
Office of the Utah Attorney General	Sean Reyes	State Capital RM 236		Salt Lake City	UT	84114-0810
Office of the Vermont Attorney General	TJ Donovan	109 State St.	Suite 1001	Montpelier	VT	05609-1001
Office of the Virgin Islands Attorney General	Denise George-Counts	34-38 Kronprindens Gade	Gers Bldg 2nd Floor	St. Thomas	VI	00802
Office of the Virginia Attorney General	Mark Herring	202 N 9th St		Richmond	VA	23219
Office of the Washington Attorney General	Bob Ferguson	1125 Washington Street SE	PO Box 40100	Olympia	WA	98504-0100
Office of the West Virginia Attorney General	Patrick Morrisey	State Capitol	1900 Kanawha Blvd. E	Charleston	WV	25305
Office of the Wisconsin Attorney General	Josh Kaul	State Capitol, Rm 114 East	PO Box 7857	Madison	WI	53707-7857
Office of the Wyoming Attorney General	Bridget Hill	State Capitol Bldg.		Cheyenne	WY	82002

# EXHIBIT C

A.B. DATA, LTD.

Class Action Administration



August 8, 2019

via USPS Priority Mail

**Re:    *Ken Johansen v. One Planet Ops, Inc.*, Civil Action No. 2:16-cv-00121 (S.D. Ohio)  
      28 U.S.C. § 1715(b) Notification**

Dear Sir or Madam:

On August 5, 2019, A.B. Data, Ltd., on behalf of the Defendant in the above-referenced action, sent a 28 U.S.C. § 1715(b) Notification stating that counsel for the Plaintiff filed an unopposed motion for preliminary approval of a Class Action Settlement Agreement on June 25, 2019. The motion's filing date in the Notification is incorrect. The motion was filed on July 25, 2019. A.B. Data, Ltd. is providing this letter to identify the correct filing date for the motion for preliminary approval.

Sincerely,

A.B. Data, Ltd.

Settlement Administrator on behalf of Defendant

# EXHIBIT D

A COURT ORDERED THIS NOTICE. YOU MAY BE ELIGIBLE FOR BENEFITS FROM A PROPOSED CLASS ACTION SETTLEMENT. YOUR RIGHTS MAY BE AFFECTED BY THIS SETTLEMENT.

YOU MUST RESPOND TO THIS NOTICE BY FILING A CLAIM FORM BY **JANUARY 9, 2020** TO RECEIVE COMPENSATION. IF YOU DO NOT WANT TO BE PART OF THE SETTLEMENT, YOU MUST TAKE THE STEPS DESCRIBED IN THIS NOTICE BY **JANUARY 9, 2020**.

A proposed settlement (the "Settlement") has been reached in an alleged class action lawsuit, *Ken Johansen v. One Planet Ops, Inc.*, No. 2:16-cv-0121, S.D. Ohio (the "Action"). The lawsuit alleges Defendant made telephone calls to residential telephone numbers in violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227 (the "TCPA"). Defendant denies that it violated any laws or did anything wrong. The Parties have agreed to the Settlement to avoid the burden, expense, risk and uncertainty of continuing the Lawsuit.

PLEASE READ THIS NOTICE  
One Planet Ops, Inc. Settlement  
Settlement Administrator  
c/o A.B. Data, Ltd.  
P.O. Box 173033  
Milwaukee, WI 53217

«Barcode»

Postal Service: Please do not mark barcode

Claim#: «ClaimID»-«MailRec»

«First1» «Last1»

«CO»

«Addr2»

«Addr1»

«City», «St» «Zip»

«Country»

**Who is included?** The Settlement Class includes persons in the United States, whose telephone numbers were on the National Do Not Call Registry, who allegedly received more than one telemarketing call from or on behalf of the Defendant. The numbers called are on the Class List. You were identified as someone who is associated with a phone number on the Class List, and associated with the number XXX-XXX-XXXX. If this is your number, then you are a member of the Settlement Class.

**How much money can I get?** If the Court approves the Settlement, Settlement Class Members who timely submit a valid Claim Form will be entitled to an equal payment from the \$752,560 Settlement Fund, after deducting the costs of Settlement Administration and Costs, as well as any attorneys' fee payment to Class Counsel. The estimated payout per person is \$20, but that number could be higher or lower depending on the number of valid claims received by the Settlement Administrator.

Plaintiff will apply to the Court for an award of attorney's fees not to exceed \$248,344 plus reimbursement of expenses incurred throughout the litigation of this action. Plaintiff will also apply to the Court for an award of \$10,000 in incentive compensation to the Class Representative Ken Johansen.

**How can I be eligible for a payment?** You must complete a Claim Form and send it to the Settlement Administrator. Claim Forms may be mailed to the Settlement Administrator or submitted online at [www.OPOSettlement.com](http://www.OPOSettlement.com). You may obtain a Claim Form by calling the Settlement Administrator at 866-545-1007. You may request at [info@OPOSettlement.com](mailto:info@OPOSettlement.com) that a claim form be mailed to you. **All completed Claim Forms must be received by the Settlement Administrator or postmarked no later than January 9, 2020 to be eligible for payment. Only valid and timely Claim Forms will be eligible for payment.**

**Your rights to opt-out or object.** If you do not want to be legally bound by the Settlement, you may "opt out" (exclude yourself) from the Settlement. If you opt out, you will not receive a payment, you may not object to the settlement, and you will not release any claims against Defendant. You will be free to pursue whatever legal

rights you may have separately and at your own risk and expense. To exclude yourself from the Settlement, you must mail a request for exclusion to the Settlement Administrator: *One Planet TCPA Settlement*, EXCLUSIONS, Settlement Administrator, c/o A.B. Data, Ltd., P.O. Box 173001, Milwaukee, WI 53217, which must be postmarked no later than **January 9, 2020**, that includes your full name, address, telephone number or numbers, and a statement that you wish to be excluded from the settlement, and your signature.

You may object to the Settlement by submitting a written objection entitled *Ken Johansen v. One Planet Ops, Inc.*, No. 2:16-cv-0121, S.D. Ohio, to the Clerk of the Court for the Southern District of Ohio, Office of the Clerk, Joseph P. Kinneary U.S. Courthouse, Room 121, 85 Marconi Boulevard, Columbus, Ohio 43215. The objection must be postmarked no later than **January 9, 2020**. Your objection must also be mailed, postmarked no later than **January 9, 2020**, to the Settlement Administrator. Addresses for the Clerk of Court and Settlement Administrator are listed on the Settlement Website, which is listed at the end of this Notice. Any objection must include your full name; address; telephone numbers that you maintain were called; all grounds for your objection, with factual and legal support for each stated ground; the identity of any witnesses you may call to testify; copies of any exhibits that you intend to introduce into evidence; and a statement of whether you intend to appear at the Final Approval Hearing with or without counsel. Attendance at the hearing is not necessary. If you want to be heard orally (either personally or through counsel) in opposition to the Settlement you must file a timely objection as set forth above.

**What if I do Nothing?** You are not required to take any action. However, if you do not submit a Claim form or opt out of the Settlement, you will receive no compensation from the settlement and your rights to bring a lawsuit against the Defendant will be extinguished.

**Who is Class Counsel?** The Court has designated the following attorneys to represent the Settlement Class in this lawsuit: Brian K. Murphy, Jonathan P. Misny Murray Murphy Moul + Basil LLP, 1114 Dublin Road,

**Can I Appear at the Hearing through My Own Attorney?** You will not be separately charged for the services of counsel representing the Class in this lawsuit. You have the right (but do not need) to retain your own attorney to represent you at the Final Approval Hearing, but if you do, you will be responsible for paying your own attorney's fees and expenses.

**When will the Settlement be finally approved?** The Court will hold a Final Approval Hearing (the "Hearing") at **10:00 am on February 25, 2020**, at the Joseph P. Kinneary U.S. Courthouse, Room 121, 85 Marconi Boulevard, Columbus, Ohio 43215, Courtroom 1, Room 331. At the Hearing, the Court will consider whether to approve the proposed Settlement as fair, reasonable, and adequate. The Court will also hear objections to the Settlement. If approval is denied, reversed on appeal, or does not become final, the case will continue and claims will not be paid.

**Want more information?** This Notice is only a summary of the proposed settlement. You may review additional details, as well as the Settlement Agreement and other relevant documents, at [www.OPOSettlement.com](http://www.OPOSettlement.com). You may review all case filings online through Public Access to Court Electronic Records (PACER) or during business hours at Office of the Clerk, Joseph P. Kinneary U.S. Courthouse, Room 121, 85 Marconi Boulevard, Columbus, Ohio 43215. Please do not call the Judge or the Clerk of the Court. They cannot give you advice on your options.



# EXHIBIT E

**Requests for Exclusion**

<b>Number</b>	<b>Name</b>	<b>City, State</b>	<b>Class Member</b>
1	MARIAN L HALLORAN	MASON CITY, IA	Yes
2	ANDREW KAPLAN	NEW MILFORD, NJ	Yes